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ABSTRACT

Racially motivated and/or targeted violence is a priority criminal justice issue for New York State. Racially motivated violence occurs when the perpetrator's intent or conscious objective is to injure a person or his property because of the person's racial identity. The following factors may explain the occurrence and recent increase in racial violence: (1) poor racial relations; (2) depressed economic conditions; and (3) specific disputes, such as school desegregation. Although no uniform nationwide system for reporting acts of racially motivated violence currently exists, it is clear that blacks have been disproportionately victimized. Police violence against blacks, specifically the use of deadly or excessive force, fosters ill will in the black community and encourages retaliatory violence. Recommendations for State policies and programs are suggested in the following areas: (1) black representation in police departments; (2) crime prevention strategies; (3) employment; (4) education; (5) drugs; (6) domestic violence; (7) handguns; (8) community-based anti-crime initiatives; and (9) prison overcrowding. A list of 56 references is appended. (FMW)

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VOLUME 3
CRIMINAL JUSTICE

ED348411

CRIME AND THE BLACK COMMUNITY

AN ASSESSMENT OF THE IMPACT OF SELECTED CRIMINAL JUSTICE ISSUES IN NEW YORK STATE

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REPORT OF THE CRIMINAL JUSTICE SUBCOMMITTEE

THE GOVERNOR'S ADVISORY COMMITTEE FOR BLACK AFFAIRS

DECEMBER 1987

MARIO M. CUOMO
GOVERNOR

BERNARD L. CHARLES
CHAIRMAN

ROBERT T. SIMMELKJAER
EXECUTIVE DIRECTOR

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STATE OF NEW YORK
GOVERNOR'S ADVISORY COMMITTEE FOR BLACK AFFAIRS

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EXECUTIVE DIRECTOR

STATE CAPITOL
2ND FLOOR
ALBANY, NY 12224

TWO WORLD TRADE CENTER 57TH FL
NEW YORK, NY 10047

Dear Governor Cuomo:

It is with great pleasure that I submit to you the report of the Criminal Justice Subcommittee of your Advisory Committee for Black Affairs. The report is called, Crime and The Black Community: An Assessment of the Impact of Selected Criminal Justice Issues in New York State.

Among the topics addressed in this selective analysis of criminal justice issues in the Black community are the nature, extent, and impact of crime; racially motivated and/or targeted violence; crime prevention strategies; and the overcrowding of correctional institutions. Racially motivated and/or targeted violence and domestic violence have been accorded high priority for State action as crimes which disproportionately impact on the Black community. Although the Subcommittee recognized the importance of other criminal justice issues (e.g., juvenile justice, sentencing, bail), it selected those issues of immediate concern to the Black community which had not also been the subjects of other recent State reports.

One conclusion of the report is that both the reality and perception of crime in the Black community need to be addressed simultaneously. To ensure a cooperative relationship between the Black community and law enforcement agencies, especially in the wake of recent highly publicized cases, concerns that deadly force is more likely to be used in dealing with Blacks need to be addressed. Recommendations in this regard include: the integration of Blacks in police departments, enactment of legislation that prevents and

deters racially motivated and/or targeted crimes, establishment of neighborhood tribunals to resolve minor disputes, and the enactment of legislation to gather and disseminate uniform data on bias-related incidents.

A major section of the report focuses upon crime prevention strategies. Deferring in-depth analysis to other subcommittees, the Criminal Justice Subcommittee nevertheless reinforces recommendations to provide comprehensive job training, increase Black owned businesses, reduce the school dropout rate, and strengthen Black families and the community infrastructure. Undoubtedly, the crime prevention prognosis is bleak unless bold steps are taken at every level of government to eradicate the deleterious effect of drugs which contribute to the large Black prison population.

In addition, the Subcommittee recommends "arresting abusers" to minimize domestic violence whose victims are battered spouses and children and recommends handgun legislation to stem homicide and assault rates. Finally, alluding to the New York State prison population which has tripled since 1973, alternatives to incarceration, especially for non-violent offenders, are recommended.

We are indebted to the Subcommittee Co-Chairs: Ms. Lynn Walker and Mr. Spencer Jameson. The scholarly and pragmatic policy papers of Dr. Elsie Scott and Professor Charles Jones also are gratefully acknowledged. We are confident that with the implementation of these recommendations, many of which can be achieved at minimal cost, tangible improvements in the criminal justice system as it impacts the Black community, will be discerned.

On behalf of the Advisory Committee for Black Affairs, I wish to express our appreciation for the opportunity to examine these criminal justice issues and submit policy recommendations responsive to the concerns of Black New Yorkers.

Sincerely,

Bernard L. Charles

Bernard L. Charles
Chairman

STATE OF NEW YORK
GOVERNOR'S ADVISORY COMMITTEE FOR BLACK AFFAIRS

BERNARD L. CHARLES
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NEW YORK, NY 10047

Dear Mr. Charles:

On behalf of the Criminal Justice Subcommittee of the Governor's Advisory Committee for Black Affairs, we are pleased to submit our report entitled, Crime and the Black Community: An Assessment of the Impact of Selected Criminal Justice Issues in New York State.

Given the range of criminal justice issues that impact upon the Black community, a comprehensive analysis of all was not feasible. Therefore, in selecting issues on which to comment, we have been guided by our own sense of priority areas of concern. We have focused upon issues of racially motivated and targeted violence because of their volatility and gravity; crime prevention strategies with a special emphasis upon community-based efforts because we believe that the proverbial ounce of prevention is indeed worth a pound of cure; and prison overcrowding, a problem which impacts in myriad adverse ways upon the confined and the communities to which they will eventually be returned.

We are indebted to Dr. Elsie Scott, Executive Director of the National Organization of Black Law Enforcement Executives, and Dr. Charles Jones, Professor at the Rutgers University Law School, for their research expertise and sensitivity to the unique experiences of Black New Yorkers. The constructive comments of individuals, agencies of government, advocacy organizations and the bar were also invaluable to us in fashioning this report.

It is our hope that the public policy recommendations set forth in this report, all of which are premised on basic common sense, will help Governor Mario Cuomo and others in the public and private sectors identify and implement appropriate ameliorative initiatives to diminish the problem of crime in the Black community.

Sincerely,

Lynn Walker
Co-Chair

Spencer Jameson
Co-Chair

ACKNOWLEDGEMENTS

The Criminal Justice Subcommittee wishes to acknowledge with gratitude the contributions of many individuals, agencies of government, advocacy organizations and the bar, whose information and knowledge of issues assisted us in the formation of this report. Assistance was received from too many sources for all to be enumerated.

State of New York

Executive Chamber

No. 66

EXECUTIVE ORDER

ESTABLISHING A GOVERNOR'S ADVISORY COMMITTEE FOR BLACK AFFAIRS

WHEREAS, members of the Black community have contributed significantly to the State and its government to the benefit of all of the people in the State; and

WHEREAS, the State must continue ro be responsive to the special needs and concerns of its Black residents; and

WHEREAS, a mechanism must be established to ensure that members of the Black community have opportunities to participate in all levels of government;

NOW, THEREFORE, I, Mario M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby order as follows:

I. Governor's Advisory Committee for Black Affairs

There is hereby created a committee to be known as the Governor's Advisory Committee for Black Affairs (the "Committee"). The members of the Committee shall be appointed by the Governor. A chairperson and vice chairperson shall be designated by the Governor. The members of the Committee shall receive no compensation, but shall be entitled to reimbursement for any necessary expenses incurred in connection with the performance of their duties. The Governor shall designate an executive director of the Committee who shall be responsible for its administrative functions.

II. Purpose and Responsibilities of the Committee

1. The Committee shall identify and evaluate areas of particular concern to the Black community and submit recommendations to the Governor for his review. The Committee shall place special emphasis on the following areas:

a. development of increased opportunities for involvement of Blacks in all aspects of State government.

b. coordination of resources to create effective educational, vocational and health training programs.

c. evaluation of policy decisions affecting the Black community.

d. evaluation of programs and services provided by State agencies and their impact on the Black community.

e. development of awareness programs to assist members of the Black community in identifying and participating in programs sponsored by the State and local governments.

2. The Committee shall create a panel, whose members shall be designated subject to the approval of the Governor, to address the unique concerns of the Black family, with particular emphasis on households headed by Black women. The Commissioners of Human Rights, the Director of the Women's Division and the Executive Director of the Council on Children and Families or their designees shall provide assistance and advice to the panel.

3. The Committee shall establish subcommittees, which shall make recommendations concerning the special needs of various Black cultural and ethnic populations, including the Caribbean community. Such subcommittees shall periodically submit reports to the Committee for its consideration and adoption.

4. The Committee, in conjunction with the Governor's Executive Committee for Affirmative Action, shall review the implementation of affirmative action programs designed to increase employment opportunities for Blacks in State government.

5. The Committee shall report on a regular basis to the Governor on its activities.

6. The Committee may request and shall receive from any department, division, board, bureau, commission or agency of the State such assistance and data as will enable it to carry out its purpose and responsibilities hereunder.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this fifth day of June in the year one thousand nine hundred eighty-five

L/S

/s/ Mario M. Cuomo

BY THE GOVERNOR

/s/ Michael J. Del Giudice
Secretary to the Governor

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CRIMINAL JUSTICE SUBCOMMITTEE

LYNN WALKER

Ms. Lynn Walker is the Deputy Director of the Human Rights and Social Justice Program at the Ford Foundation. Previously she served as Deputy Assistant Attorrey General, United States Department of Justice, Civil Rights Division. Ms. Walker's experience also includes service as a Staff Attorney for the NAACP Legal Defense and Educational Fund, Inc., specializing in institutional reform, school desegregation and capital punishment litigation. In addition, Ms. Walker has been General Counsel to the New York city Commission on Human Rights under the leadership of Commissioner Eleanor Holmes Norton, as well as Law Clerk to the Honorable Constance Baker Motley, former Chief Judge, U.S. District Court for the Southern District of New York. She is a graduate of Barnard College and the Columbia University, School of Law, where she was a member of the Law Review.

SPENCER JAMESON

Since 1967 Professor Jameson has been Program Director/Associate Professor at Teachers College, Columbia University. He is responsible for designing and coordinating teacher training programs and a survival skills program at the Women's Correctional Facility on Rikers Island; operating a stress awareness program for students, teachers, and correction officers; conducting ongoing teacher training workshops; and teaching courses on urban depressed areas at Teachers College. He has served as Director of 19 urban community school projects (1969-71) and the Community Resource Center (1967-69). From 1971 to 1975 he served as Adjunct Assistant Professor at Livingston College, Rutgers University, designing and teaching courses in urban education. Among Professor Jameson's publications is the "Reading Process and Processed Readers" in the Journal of Instructional Technology. Professor Jameson has done graduate work at New York University and the City University of New York.

PRINCIPAL RESEARCHERS

PROFESSOR CHARLES JONES

Professor Charles Jones is a Professor at the Rutgers University Law School, where he teaches courses in criminal law and procedure, civil rights, corrections law and prison law advocacy, among other subjects. He has had a distinguished career as a practicing lawyer and professor of law, holding positions in such places as the NAACP Legal Defense and Educational Fund and the Harvard Law School where, as a Teaching Fellow, he focused on race relations and the law, law in a changing society, and issues involved in racially motivated and targeted violence. He is also a former member of the Board of Governors of the American Civil Liberties Union of New Jersey and the Center for Research on Institutions and Social Policy. In addition, he has served as counsel in several important cases involving prison conditions, spoken at numerous conferences and programs on issues in the area of criminal justice and written many scholarly articles, including "Liles v. Ward: A Case Study in the Abuse of Psychotropic Drugs in Prison," 8 New England Journal of Prison Law 1 (1982) (with Stephen Latimer). Professor Jones has a bachelors degree from the University of Chicago, a masters degree in Public Administration from the John F. Kennedy School of Government of Harvard University and a law degree from the De Paul University School of Law where he was a member of the Law Review.

ELSIE SCOTT, Ph.D.

Dr. Scott is currently Executive Director of the National Organization of Black Law Enforcement Executives and in that capacity is in constant contact with law enforcement and community-based agencies across the nation. She has planned and implemented projects involving crime in the Black community and ways of combating it and has authored numerous articles on issues such as racial violence and responses to it by the law enforcement community such as: Violence Against Blacks in the United States, 1979-81 Institute for Urban Affairs, Howard University, 1983 and "Black Attitudes Toward Crime Prevention," in Crime and its Impact on the Black Community, L.P. Brown and L.E. Gary, eds. 1976. She has a national reputation and acknowledged expertise on issues of crime, crime prevention, and the Black community. In addition, she has served as a member of the Congressional Black Caucus, Criminal Justice Brain Trust, and founder of the North Carolina Black

Women's Political Caucus. Dr. Scott's career thus far, includes service as the Director of Criminal Justice at St. Augustines College; and Professor at Howard University, North Carolina Central, and the Rutgers School of Criminal Justice. Dr. Scott is a graduate of Southern University. She received a masters degree from the University of Iowa and a Ph.D. from Atlanta University, where her dissertation topic was "The Politics of Police Systems in Predominantly Black Cities."

EXECUTIVE SUMMARY

RACIALLY MOTIVATED AND/OR TARGETED VIOLENCE

The Criminal Justice Subcommittee of the Governor's Advisory Committee for Black Affairs has identified racially motivated and/or targeted violence as a priority criminal justice issue for New York State. For purposes of the Subcommittee's policy analysis, racially motivated violence occurs where the perpetrator's intent or conscious objective is to injure a person or his property because of the person's racial identity.

Various theories have been advanced to explain the occurrence and recent increase in such violence, including poor race relations, depressed economic conditions, and specific disputes such as school desegregation. Although no uniform nationwide system for reporting acts of racially motivated violence currently exists, it is clear that Blacks have been disproportionately victimized by this intolerant behavior.

A disturbing variant of racially motivated violence is police violence, specifically incidents of police use of deadly or excessive force directed against Blacks, fostering ill will in the Black community and encouraging retaliatory violence.

To address the issue of racially motivated and/or targeted violence the Subcommittee set forth the following recommendations:

- New York State, through the Legislature, should enact a centralized comprehensive reporting system on the discharge of firearms by the police. This information should be reported to the Division of Criminal Justice Services which agency would make it available for public dissemination.

- New York State should also centralize the reporting of alleged incidents of brutality in the Division of Criminal Justice Services. This information could then be analyzed to reveal the nature, numbers and frequency of occurrence of alleged brutality by police officers against residents throughout New York State. The establishment of such a data base is essential to the determination of what factors account for the current levels of police bias and what measures may be effective in producing reductions.

- New York State should demonstrate a strong commitment to improving relations between the police and minority communities by providing funds for the expanded development of locally initiated projects designed to increase contacts between the police and minority communities. Such projects should include the creation of neighborhood police stations in community facilities, such as public housing projects, and public schools to help increase the availability of beat patrolmen to resolve on a day-to-day basis neighborhood crime problems.

- New York State should create enabling legislation to provide police magistrate courts or neighborhood tribunals to adjudicate petit criminal or quasi-criminal neighborhood disputes. Such courts would empower communities on the neighborhood level to effectively deal with relatively minor, local crime problems swiftly and efficiently.

- The Division of Criminal Justice Services should be expanded to provide services comparable to the Federal Community Relations Service of the Justice Department, to facilitate resolution of conflicts growing out of alleged incidents of police brutality, particularly those involving White officers and minority citizens. Mediation and conciliation services are particularly needed to prevent the spread of hostilities in the wake of incidents such as the Eleanor Bumpers and Michael Stewart cases.

- New York State must enact legislation requiring county and municipal police departments to gather and disseminate uniform data on the nature and number of racially or bias motivated incidents occurring monthly. Alternatively, the Division of Criminal Justice Services should be encouraged to effectuate its plan to redesign its Uniform Crime Reporting (UCR) statistical data system. By incorporating a "hate crime" component into a redesigned UCR System, the Division of Criminal Justice Services could begin systematic planning with local police agencies for the collection of hate crime data and develop a uniform system of reporting.

- New York State should sponsor law enforcement training programs to help sensitize law enforcement agencies and officers to the differences between bias motivated crimes and crimes stemming from other causes.

- New York State should enact the civil rights and penal laws to curb racially targeted and/or motivated acts. Only a comprehensive approach along the lines being pursued by Senator Paterson can be expected to effectively curb the random and pernicious acts of bias motivated violence which infect such a wide variety of sectors of our public and private lives.

- New York State should without hesitation utilize the services special prosecutors in any and all instances in which there is a reasonable basis for the belief that police, other officials or private citizens have utilized force or violence which is racially motivated.

- New York State should outlaw the use of "chokeholds" as an acceptable police practice. This could be done through legislation or regulations attendant to the disbursement of State funds to policing authorities.

Black Representation In Police Departments

Despite the paucity of comprehensive information regarding the integration of Blacks into municipal and county police departments in New York State, data supplied by the Division of Criminal Justice on the assignment of State police by race to troop locations show varying, but generally low levels of racial integration. In most cases, the percentage of Blacks in police departments is significantly below the percentage of Blacks in the general population (New York City 8.8%; Syracuse 4.4%; Rochester 5.5%).

To rectify the underrepresentation of Blacks in State and local police departments, the Subcommittee recommends:

Police departments throughout the State of New York, particularly in major cities, should be encouraged and supported in undertaking whatever steps are necessary to increase minority representation. Vigorous efforts are required to recruit minorities, particularly Black and Hispanic officers, to reduce hostilities and distrust currently existing between police officers and community residents.

Crime Prevention Strategies

The Subcommittee studied a number of issues related to crime prevention that, if addressed through State legislation and policy implementation, would reduce the high level of crime in the Black community. Some of the most critical issues are reviewed in the report, along with specific recommendations.

Employment

Viewing crime in a broad socioeconomic context, the Subcommittee cites persuasive research establishing linkages between unemployment, poverty, and crime. As a remedy, we believe that the State must commit itself to the development and implementation of a full employment program with priority in job placement being given to Blacks since they as a group experience the highest rates of unemployment. Blacks who are incarcerated should also be afforded meaningful job training, counseling and other job readiness services in order to ensure gainful employment upon return to society.

To reduce risk-taking behaviors and substitute constructive alternatives, which enhance economic stability and community development, the Subcommittee recommends the following:

- New York State should develop a comprehensive job training program. In terms of unemployment, this means that job training programs must do more than promise to create a thousand jobs. Training programs for dead-end jobs and jobs that are disappearing will not effect change. These programs must provide economic opportunity by interfacing directly with the changing labor market.

- New York State should provide more loans and technical assistance to small, minority-owned businesses and increase incentives so that larger businesses will locate and/or invest in the Black community. The benefits that flow from such an approach are threefold. First, as a result of the influx of businesses, large and small, real employment opportunities are created. Second, the encouragement and support of small business provides both a community base and role models for those who are alienated. Finally, incentives provided for businesses will encourage the development of deteriorated communities, thereby eliminating targets which encourage vandalism and destruction. The revitalization of the community would help improve the overall quality of life for community residents.

- In the case of ex-offenders, three types of programs are recommended. First, cash subsidies should be provided. Recently released prisoners have little savings or cash to bridge the gap between prison and

work. Providing a cash subsidy for a number of weeks after release would give ex-offenders time to look for a job that will provide steady employment and decent wages. Second, job training programs for offenders must also interface with the labor market. Training opportunities should extend beyond the institution to encourage advancement. Employment assistance should be part of both pre- release and parole. Finally, employers must be encouraged to hire qualified ex-offenders. If education and job training opportunities are not parlayed into realistic employment opportunities, there is little incentive to remain crime free. As was stated well recently by Marion L. Borum, Deputy Commissioner for Program Services, New York State Department of Correctional Services:

> "As concerned citizens, we must be acutely aware that most prisoners will be returning to their communities. Should we give them $40 'gate money,' point them in the direction of their homes, and be finished with them? Or should we attempt to provide them the opportunity of a phased reintegration into the community, assist them in obtaining jobs or training, accumulate some savings, contribute to the support of their families and return them to their communities in better shape than when they left? To make the point differently, should we provide the prisoner a bridgehead to prepare a plan for himself/herself in the community to assist in becoming a productive law abiding citizen?"
>
> (Letter of January 13, 1987.)

- The welfare system should be reviewed and revised. There is a need to revise the system so that it will foster independence rather than dependence and stronger Black families rather than weakened ones. Welfare recipients should be provided marketable job training and assisted in finding work. The Massachusetts workfare program should be reviewed for possible replication in New York. Programs such as "Rent-a-Teen" should be encouraged to provide youths with basic, good work habits.

Education

A contributing cause of crime, particularly in the Black community, has been the continuing failure of the public educational system to retain and educate well the thousands of young Blacks who populate our schools. Statistics which indicate that 40 percent of Black youth have not completed high school, coupled with the high correlation between poor school performance and delinquency, lead to the conclusion that educational reform is an essential element of crime prevention. For example, the Task Force on Juvenile Delinquency reported that boys who fail in school were found to be delinquent almost seven times more than those who did not fail. Similarly, studies have identified truancy and school misconduct associated with the high school dropout problem.

To interrupt this pattern, the State must devote substantial resources to effective programs in the public schools aimed at the retention of Black students, including enriched instructional programs with high standards, culturally sensitive teaching and counseling, and job opportunities commensurate with full-time student status. Pursuant to these objectives, the State must invest in the education of Black youth, fully cognizant that in the twenty-first century such youths will constitute a substantial portion of the State's labor force. With respect to education, the Subcommittee recommends:

- New York State should provide more incentives for business and community leaders to develop and implement programs to assist inner-city youths in pursuing higher education. Programs such as the "I Have a Dream Project" developed by Eugene Lang to encourage youngsters to complete high school and enroll in college should be used as a model.

- New York should introduce conflict resolution instruction in junior high school classes. The focus would be on teaching adolescents the facts of violence and how to avoid confrontation. The curriculum developed by Dr. Deborah Prothrow-Stith of Boston Hospital should be used as a model. The introduction of this curriculum should have a positive impact on both school and community behavior.

- o The development of curricular offerings which prepare teachers for employment in low-income and minority communities should be supported. This curricula should focus on cultural differences and on the expectations that teachers have for students from different backgrounds.

- o More community-based, after school, weekend and summer programs in poor neighborhoods should be funded. The New York Urban League and several Black churches in Harlem are currently operating a project of this type that could serve as a model for Black churches throughout the State. Both tutorial and enrichment programs should be offered. These programs can provide students with activities that will keep them off the streets, while helping them improve their academic skills.

Drugs

Perhaps nowhere is the threat to the life and the vitality of the Black community more acute than in the area of drug abuse. Involvement with drugs frequently leads to involvement with crime. Statistical data indicates that Blacks in New York are disproportionately arrested for drug related offenses. In 1984, over half of the persons arrested on charges relating to the sale or manufacture of drugs in New York State were Black, and 40 percent of the persons arrested for drug use and possession were Black.

New York State has recognized the need to target its substance abuse programs toward the communities most in need. Consequently in 1985-86 over $43 million was allocated in funding for programs that primarily served Blacks. These programs included a cross section of organizations such as religious groups, hospitals, civic organizations and drug treatment groups. The majority of the programs are located in New York City where the greatest number of abusers live. While the sum allocated by the State is substantial in an absolute sense, it is minimal relative to the need for substance abuse programs. Much more must be done if the cycle of drug abuse and crime is to be broken. The following are among the drug prevention initiatives recommended by the Subcommittee:

- o New York State should expand "demand reduction" programs. The primary target of school programs should be kindergarten children. Programs for kindergarten students can be patterned after the "just say no" campaign. Programs for junior high and high school students should stress the negative impact of drugs and alcohol. The State

and municipalities should prepare public service announcements specifically designed for Black audiences--such as rap songs and statements by Black athletes, community leaders and artists. These announcements should be run on Black radio stations, radio stations that play crossover music, television stations and at neighborhood theaters.

- o New York State should sponsor public education programs and literature to explain the relationship between AIDS and intravenous drug use. According to Dr. Beny Primm, Executive Director of the Addiction Research and Treatment Corporation, in testimony before the Select Committee on Narcotics Abuse and Control of the U.S. House of Representatives, AIDS has become one of the leading causes of death among young Black males in New York City. He stated that the prevalence of AIDS in Blacks is attributable in large part to the use of shared needles in intravenous drug use.

- o New York State should sponsor programs to educate ministers, parents and community workers about drug abuse. The State should also provide training for ministers and community workers so that they can provide substance abuse counseling.

Domestic Violence

Despite the paucity of studies on the prevalence of family violence in the Black community, it is a serious problem. Compounding the problem is the below average appropriation in New York State for programs to reduce domestic violence. The unavailability of shelters--a primary treatment modality for battered women--persists in New York State. Data collected by the New York State Coalition Against Domestic Violence showed that in 1985-86, 6,333 women and 5,268 children in the State were refused shelter--most often for lack of space. New York has had a $1 million appropriation for domestic violence since 1982, whereas 19 states with smaller populations have had larger appropriations. To resolve funding and other problems related to domestic violence, the Subcommittee recommends that:

- o New York State should encourage local law enforcement agencies to arrest abusers, as the most appropriate strategy in cases of domestic violence.

- New York State should provide alternatives to incarceration in selected cases of less grave domestic violence. The alternative programs could include mandatory counseling and/or drug and alcohol treatment. Such programs would divert offenders from overcrowded jails and prisons.

- New York State should make the funding of shelters for victims of spousal abuse a priority. Special emphasis should be placed on encouraging the development of shelters by Black organizations and helping to fund such shelters. This Subcommittee supports the recommendation of the Governor's Commission on Domestic Violence, chaired by Karen Burstein and Kim Fields, that the 90-day stay rule for residents of special care homes should be abandoned.

- New York State should encourage the development of domestic violence prevention centers. They can be housed in existing community-based facilities. Hospital emergency rooms could serve as ideal locations for such centers.

- Legislation should be passed that requires the admission of State residents into any shelter regardless of home county.

Handguns

Research clearly shows that there is a relationship between handgun use and violence in the United States. Forty-three percent of all murders in 1985 were committed with handguns. Handguns seem to be the preferred weapon in Black homicides. Over half of the Black homicides during the period 1976 to 1984 were committed with handguns. Research findings indicate that "non-Whites...are seven times as likely to be shot to death as Whites."

Although law abiding citizens maintain that they keep handguns to protect themselves from criminals, few of these persons ever use their guns for self-protection. Rather these weapons are usually accidentally discharged, stolen and used illegally by burglars or family members in domestic violence.

A review of the research on handgun legislation in other states, particularly complementary legislation in adjoining states, persuades the Subcommittee that New York State should adopt handgun legislation. Leadership on this issue would be facilitated by implementation of the following recommendations:

- In light of the weakening of federal restrictions on handguns, State legislation should require the registration of all handguns, a mandatory waiting period for licensure, periodic inspections of gun dealers, and increased penalties for handgun possession and use.

- Legislation that bans the manufacture, sale and use of plastic handguns should be enacted. The new plastic handguns are not easily detected by equipment used in airports and at other security check points.

- The Governor's Office should launch a public education campaign to expose the public to the facts concerning the use of handguns. Public service announcements, seminars, community forums, public interest television and radio shows, billboards, and ads should be used to present the statistics and facts on the detrimental effects of handgun use, especially information on accidental deaths, the probability of "legal" handgun thefts, and handgun use in domestic violence incidents. The high level of victimization for Blacks justifies the need for educational programs. Women have traditionally been more supportive of handgun restrictions than men, but as more women become heads of households, the gun industry is making them the subject of many ads. Women need to be exposed to both sides of the issue.

- Since stricter handgun controls will take time to implement and produce results, a short range strategy is needed. Thus, the Governor's Office, in conjunction with Black organizations, should launch an "unload the family handgun campaign." The campaign also should encourage placing bullets in a separate location from the handgun. This may reduce the number of deaths and assaults. The "unload the family handgun" campaign could be developed with the recognition that many families own guns that may be used in domestic violence incidents or in suicides. The time it takes to go to two locations and to lead the weapon may be enough to cool the assailant's temper or to give the potential victim time to escape.

Community-Based Anti-Crime Initiatives

Crime prevention has become an accepted function of police departments, but there is still a need for more citizen involvement in crime prevention efforts. According to a recent study, three-fourths of the organizations operating crime prevention programs in the State are law enforcement agencies.

Although the Police Foundation has identified four community-based crime prevention programs in New York State, more such programs are needed, particularly in Black neighborhoods, run by Black organizations and specifically targeted toward crime in the Black community. To that end, the Subcommittee recommends:

- An evaluation of existing crime prevention programs with special emphasis placed on whether the needs of special groups are being adequately addressed should be undertaken. Blacks should be identified as a special group. The results of the evaluation would be used to assist community groups in designing and implementing programs in areas that are not being serviced or that are inadequately serviced. In this regard, we commend to the Governor for further review and consideration the excellent report of the Correctional Association of New York called, Toward A Crime Prevention Strategy. We have incorporated its recommendations herein by reference.

- The National Urban League's Black-on-Black Crime Program should be reviewed. Monies should be made available to sponsor such programs across New York State. The National Urban League program seeks to inform the Black community of the magnitude of the problem of Black-on-Black crime while at the same time strengthening Black self-esteem. The primary strategy employed is educational outreach.

- Police departments should be encouraged to develop and implement community-oriented policing systems (C.O.P.S.), programs. Under this program, joint police community problem solving is stressed. Strategies are utilized that place the policy in closer proximity to the community and maximize visibility, communication and interaction. The State should provide funds and other support to municipalities that wish to initiate and/or expand C.O.P.S. programs.

- Black groups that are presently involved in social service and community development issues would probably become more active in specific crime prevention efforts if they were educated concerning effective strategies and were given the resources needed to expand their programs. The State should make an extra effort to inform Black groups of monies available, to assist them in the application process, and thereby funding for successful programs to assist them in improving their fundraising skills. The Citizens Committee for New York

City, chaired by Marietta Tree, has substantial experience in working with law enforcement and community-based groups in devising community-oriented crime prevention programs. The Committee and others should be consulted and ideas for program models elicited. The Citizens Committee has recognized that:

> ...[W]ithin poor minority communities, community organizations need to be supported through targeted resources for such activities as community organizing, leadership training, youth organizing and alternatives, and technical assistance...No technical assistance is provided, to our knowledge, in the kind of strategic problem-solving, at the local level, which we have found so effective and so popular among communities where feelings of alienation from the criminal justice system run high. (to January 21, 1987.)

Prison Overcrowding

Since 1973, New York State's prison population has tripled from about 12,500 to 38,943, as of January, 1987. As instances of reported crime have skyrocketed, so has prison construction. However, the State's growing prison population has not resulted in a decrease in crime.

Imprisonment has a dramatic impact on Black and Hispanic communities. Seventy-five percent of New York State's inmates are Black or Hispanic. Researchers have found that disproportionate Black imprisonment combined with overcrowding has a profound influence upon Black culture, identity, social and political status, the family, and race relations.

The increased severity of criminal justice policies has led to prison overcrowding in New York State. Three policy alternatives can relieve prison overcrowding. First, legislative changes to eliminate mandatory minimum sentences and mandatory prison sentences can be initiated. Second, expansion of existing prison facilities, despite diversion of needed public resources from other programs, can be continued. Third, the development of alternatives to incarceration deemed to have greater probability of reducing recidivism rates can be facilitated. To achieve these objectives, the Subcommittee offers the following recommendations:

- Mandatory sentencing laws should be reformed. Mandatory sentences are now appropriate only for violent offenders, the circumstances of whose crimes indicate a necessity for such sentencing. Amendments should achieve the objective of allowing early release for non-violent offenders through the imposition of more appropriate sanctions, such as intensive supervision or probation.

- Probationary opportunities, community service sentences and restitution programs for non-violent offenders should be expanded.

- New York State must develop legislative mechanisms to establish population capacities for the existing prison population. When population "caps" are exceeded, and emergency release mechanism should become operative to release pre-screened inmates to parole supervision thirty days prior to their scheduled release date.

- New York State should establish a limit for new prison construction.

INTRODUCTION

This report addresses selectively some issues relative to crime in the Black community. There has been an inadequate amount of attention devoted to reducing crime in Black communities, especially poor, inner-city communities. Levels of street violence that would prompt a major outcry if prevalent in White communities are too often tolerated by government where the victims are Black. Statistics relative to crime tend to overlook the fact that the vast majority of Blacks are hard-working, contributing members of society who are deserving of the same degree of safety and a quality of life predicated on a measure of security for person and property as Whites.

While the Black community must have greater protection from crime, it also has an interest in ensuring that those involved in criminal conduct are given meaningful opportunities to reform their lives. In a recent report called, Minority Issues in Community Corrections, Dr. Alice Green, Deputy Director for Policy and Planning of the New York State Division of Probation and Parole, made the point well:

> Incarceration plays a substantial role in prolonging the demoralizing cycle of poverty for minorities. As an inmate, the offender cannot make a living or contribute to the support of his or her family. As an ex-inmate, he or she faces difficulties in obtaining employment. The consequences of disproportionate incarceration extend far beyond individual inmate and affects their families, future generations, and ultimately, the quality of life in a society.

Most offenders are at some point released from prison and, having been warehoused in overcrowded, debilitating institutions which are ill equipped to provide meaningful educational and employment training, return to the free world u able to work or to otherwise sustain themselves without esort to welfare or crime. Recidivism ratcs are very high. Thus out of interest in crime prevention and also in reclaiming lives of Black people, this report has a dual focus on offender and victim.

We also note that our society is becoming more estranged, more racially polarized. Since the 1968 Kerner Commission report and its more memorable conclusion that American society was becoming two societies, one White, one Black, that prognosis has come to be generally true. A recent New York Times article entitled "New York Race Tension is Rising Despite Gains," (Sunday, March 29, 1987) revealed that New York housing remains today virtually as segregated along Black-White lines as it was in 1970. A poll conducted by The New York Times found that 72% of Whites and 60% of Blacks live in neighborhoods composed entirely or mostly of persons of their own race. Therefore, interracial contacts in public areas -- schools, transportation, housing, etc. -- frequently involve conflict and violence because of the estrangement existing among people of different racial and ethnic groups.

The police role in monitoring the tension is exacerbated by the reality that the ordinary tension involved in making an arrest or preventing conflict may be heightened merely by the racial differences of the officer and the citizen. Indeed, University of California sociologist, Paul Takaqi, cites racial polarization as a major cause of police violence where the race of officers in minority communities differs from that of residents (Takaqi, 1974).

Moreover, the perception, if not the reality, is that racially motivated crime, like violent crime, is on the increase in New York State and that law enforcement strategies are ineffectual in countering either. Police frustration, within a context and climate of diminished public support, produces incidents where police violence is manifest and that, in turn, deepens racial divisiveness.

This report does not purport to be a comprehensive review of all of the criminal justice problems that confront the Black community. Perforce time and budgetary constraints have precluded preparation of an in-depth report on many issues. Such a review is unnecessary in light of the plethora of high quality studies and analyses of crime conducted by the State and private groups with expertise on the subjects subsumed within this report. In this report we do underscore important areas of policy which we believe warrant the priority attention

of the Governor of the State of New York. The report suggests a number of ways that the problems of crime in the Black community can be addressed. Many of the recommendations are drawn from programs and approaches already in place in the State which warrant expansion and greater support.

Although not discussed in depth in the report, we want to here underscore our special concern over the welter of problems presented by the juvenile justice system. The data that follows demonstrates that "crime is a young man's activity" by and large, making it critical that the State adopt targeted, proactive measures to help deter young people from becoming involved in criminal activity. Young people are <u>our</u> future. They need and deserve special attention.

Overall, it is our sense that the State must commit immediately and in a sustained way to build on and strengthen approaches to crime prevention that have already been shown to be effective. We believe that it is not a matter of the State not knowing what to do to better address these problems. It is a matter of the will of the State to address these problems. The continued failure to muster the will and resources to combat crime will, if unaltered, reap a bitter harvest of wasted human resources, economic decline, and a poor quality of life for us all.

THE NATURE AND EXTENT OF CRIME IN THE BLACK COMMUNITY

Crime is one of the most formidable social problems facing American society today. While crime has caused fear, despair and hardship throughout many segments of society, it has had a disproportionate impact upon the Black residents.

The Uniform Crime Reports and other data sources that have been used to show a relationship between race and crime have consistently shown that Blacks are disproportionately affected by violent crime. On the national level, Blacks make up approximately 12 percent of the population, yet 42 percent of the homicide victims in 1985 (7,294) were Black. Today homicide is the leading cause of death among Black men and women between the ages of 25 and 34. One-third of Black male deaths at all ages are caused by homicide. The Bureau of Justice Statistics has used crime statistics to develop an estimate of the lifetime risk of becoming a victim of homicide. The startling results show that Black males have a 1 in 21 lifetime chance of becoming a homicide victim. Black females have a 1 in 104 chance, while White males have a 1 in 131 chance, and White females have a 1 in 369 chance.

The high victimization rate of Blacks goes beyond homicide. The 1982 National Crime Survey found that Blacks had higher rape, robbery, assault and theft victimization rate than Whites. The violent crime victimization rate for Blacks was

43.7 per 1,000 population ages 12 and over, compared to a 33.2 rate of Whites.

In The 1985 National Crime Survey report on households touched by crime, Black households were found to be more vulnerable to crime than others. Six percent of Black households compared to 5 percent of White households were touched by violent crime; 9 percent vs. 8 percent were touched by theft; and 7 percent vs. 5 percent were touched by burglary.

Blacks constituted 26.6 percent of all arrests in 1985. The overrepresentation of Blacks is much greater for violent crimes than it is for other crimes. For example, Blacks made up 48 percent of the murder arrests, 46 percent of the rape arrests, 62 percent of the robbery, and 40 percent of the aggravated assault arrests. On the other hand, Blacks constituted only 20 percent of the vandalism arrests, 23 percent of the arson arrests, 29 percent of the burglary arrests, and 28 percent of the embezzlement arrests.

The crime statistics for New York State are similar to the national statistics. Blacks make up only 13.7 percent of the State's population, yet they average approximately 45.6 percent of all felony arrests. For example, they made up 50 percent of the homicide arrestees in 1984, 60 percent of the rape, 67 percent of robbery, 47 percent of aggravated assault, and 33 percent of burglary arrestees. In New York City, Blacks make up approximately 25 percent of the population, but 50 percent

of the felony arrestees in 1985 were Black. A study of male felony arrest trends in New York State for the period from 1970-1984 found that across the 15 year period, the non-White average arrest rate was 5.5 times that of White group (Alstyne, 1986).

Research has shown that most personal crimes are intra-racial incidents. Thus most Black victims are victimized by Black perpetrators. This fact is best exemplified by examining homicide data. The 1985 Uniform Crime Reports states that "94 percent of the Black murder victims were slain by Black offenders, and 88 percent of the White murder victims were killed by White offenders." Likewise, survey data show that 81 percent of the violent crimes against Blacks are perpetrated by Blacks.

The typical crime victim, like the typical crime perpetrator, is a young, poor, undereducated Black male. Nationally, Black males between the ages of 16 and 19 have the highest violent crime victimization rate of any race-age group. In New York State, The 1984 National Crime Survey found that Black males ages 12 and above had a personal victimization rate of 35 per 1,000 for personal crimes of violence. During the same period, Black females had a victimization rate of 31 while White males had a victimization rate of 32 and White females only had a 23 per 1,000 victimization rate.

THE IMPACT OF CRIME

The consequences of crime for the Black community are many. Not only are the rates of victimization higher for Blacks than for Whites, but they are also higher for the urban dweller and the poor. Blacks, who are disproportionately urban dwellers and disproportionately poor, are therefore at a much higher risk of victimization than their counterparts. Consequently, the impact of victimization is compounded. In New York State about 68 percent of the Black household victimizations occurred in New York City, while only about 42 percent of White household victimizations occurred there.

According to Criminal Victimization in the United States (1984), a larger percentage of Black victims of personal crimes of violence incurred medical expenses (13.2 percent) than did White victims (9 percent). In addition, Black injured victims of personal crimes of violence incurred medical expenses in 38.5 percent of victimizations, whereas White injured victims incurred medical expenses in 28.7 percent. However, Black injured victims were slightly less likely to be covered by health insurance or to be eligible for public medical services (68.4 percent) than White injured victims (70.5 percent). As a result, victimizations which require medical treatment are paid for with available cash which drains already stretched budgets, thereby making it harder for Blacks, who are disproportionately poor, to break out of poverty (Stewart, 1986).

Victimizations which result in physical injury often necessitate absence from work, frequently without compensation. Black injured victims were more likely to receive hospital care (35 percent) than White injured victims (24.1 percent). Furthermore, Black victims of personal violence lost more days from work than White victims. More than twice as many Black victims report losing eleven days or more from work (11.7 percent) than did White victims (5.3 percent).

If the cost of sustaining these individuals and their families during this time cannot be borne by the family and friends and the government has to provide sustenance, the victimization of the individual has economically impacted the community-at-large. Furthermore, the tendency to put off all but absolutely necessary treatment because of expense may have long term effects on the individual's health and an even greater economic impact on the community-at-large.

Stewart (1986:6) notes that:

> Since poor people often cannot afford (property) insurance, and since personal property accounts for almost all of their capital, the theft of a TV, furniture, or car can be devastating. Robberies of cash or checks for rent, welfare or Social Security may at one stroke eliminate a family's ability to pay for home, food, or future.

The 1984 Criminal Victimization Report indicates that Black victims suffer more in terms of losses from household crimes than White victims. In addition, Black victims recovered slightly less than White victims. Consequently, the financial impact of crime appears to be greater for Black victims than for White victims.

The impact of personal and property victimization extends well beyond the specific incident. For example, Hindelang (1978) reported that 40 percent of Whites and 55 percent of Blacks felt either somewhat or very unsafe about being out alone in their neighborhoods at night. The most prevalent coping strategy for these individuals is avoidance behavior. They and their families avoid going out at night and avoid some people, places, and modes of transportation. Consequently, work and education opportunities that may require the individual to expose him/herself to high risk situations may be avoided. This, in turn, serves to limit the individual's participation in those activities that may have a positive effect on his or her economic well-being.

The need for services and assistance to victims of crime has become a recognized fact by most jurisdictions. Most states now have a crime victims compensation program that provide assistance to victims of personal crime. New York's compensation program is administered by the Crime Victims Board through a main office in Albany and five regional offices.

The Board does not maintain statistics of the number of Blacks applying for compensation awards. These statistics would be useful in determining whether Black victims are availing themselves of the assistance.

A review of the list of victim assistance programs funded through the State showed that despite the fact that approximately 60 percent of the crimes reported in the State occur in New York City, only 27 of the 72 funded programs are located in the City. An additional 10 programs are located in suburban New York areas. There is clearly a need for the State to work with community and religious organizations to encourage more program development for inner city crime victims.

The impact of crime in the Black community extends beyond the individual to the Black community as a whole. Brimmer (1973) noted that crime resulted in higher costs of shelter, food and other necessities. Rizzo and Smith reported that in Chicago for every rise of one percent in the crime rate, rents and home values dropped by 0.2 to 0.3 percent. These added costs result from the reaction of the business community to the high crime rates.

Businesses that remain in high crime areas absorb the rising costs of crime prevention technology--burglary alarms, window bars, other security devices. These costs are passed on the consumer. Other businesses move away because of low profit

and high overhead. Mayor Tom Bradley of Los Angeles (1973) reported that as firms moved away from the city they took thousands of jobs--often too far away for Black employees to follow. In addition, they left behind abandoned buildings with broken windows and gutted interiors that became attractive nuisances and encouraged more vandalism and destruction. The losses through vandalism and the fear of crime at night caused many theaters and other places of entertainment to close.

Brimmer (1973) also reported that as a result of the high crime rates in the Black community, mortgage monies were lost because of ghetto "red lining" by financial institutions. Individuals who wanted to establish businesses were simply unable to get necessary financing. Consequently, community revitalization was prohibitive.

In sum, these and a long litany of other desultory statistics demonstrate beyond purview of doubt the disproportionate and virulent impact of crime on the Black community specifically and on the larger society generally. Manifestly, if the State of New York is to address the complex of factors that give rise to and perpetuate these circumstances, it must utilize a multiplicity of approaches. In the discussion to follow, we briefly highlight some priority areas that warrant attention in this regard.

For clarity of presentation, we have grouped the discussion and recommendations that follow into three parts. In Part I, we describe our concerns about the incidence of

racially motivated or targeted violence directed primarily by Whites against Blacks. In Part II, we present our views about crime prevention strategies that could and should be implemented in the Black community.

In Part III, we set forth our concerns about the overcrowding of correctional institutions.

I. RACIALLY MOTIVATED AND/OR TARGETED VIOLENCE

Racially motivated or targeted violence may arise in the context of organized hate groups such as the Ku Klux Klan, neo-Nazis, the Order, the Aryan Nation, or others whose purpose and ideology is premised on racist or supremacist ideologies. It is groups such as these that come to the public mind most often when incidents of racially motivated and/or targeted violence arise. Less well understood and by its nature generally less subject to sustained scrutiny is randomly initiated racially or bias motivated violence perpetrated by private individuals, acting in spontaneously formed groups or alone, and spontaneous violence by "officials," generally law enforcement officers -- city police, State and county police and corrections officers. This latter type of violence is also most difficult to combat because its occurrence is usually unpredictable; it is subject to contagion or imitation; it may catalyze police excess use of force; and it may trigger pretextual violence, i.e., violence inflicted under the guise of a response to a perceived social injustice.

For purposes of this discussion, racially motivated violence shall be defined as violence perpetrated because of the victim's racial identity.[1/] In other words, racially motivated violence occurs where the perpetrator's intent or conscious objective is to injure a person or his property, because of the person's racial identity.[2/]

Scholars of the subject of racially motivated/targeted violence offer several types of explanations for its incidence. Some assert that such violence is perpetrated by individuals and/or groups which perceive their position of preeminence or control over other groups to be threatened and resort to violence to maintain and reinforce the extant hierarchical relationship. Others point to economic conditions as the fertile breeding ground of scapegoat oriented violence by individuals or groups. For example, sociologist Dr. Harvey Brenner argues that depressed economic conditions precipitate

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1/ A person's national origin, ethnic heritage, or religious beliefs frequently precipitate similar incidents. See, e.g., Anti-Defamation League of B'Nai B'rith, "Audit of Anti-Semitic Incidents," (annual publication which accounts the incidents of Anti-Semitic violence in the United States). See also, Vietnamese Fishermen's Ass'n v. Knights of the Ku Klux Klan, 518 F. Supp. 993 (S.D. Tex. 1981).

2/ The term "violence," as used in this discussion, includes any conduct which would violate criminal laws proscribing assaults, homicides, arson, cross-burning, and vandalism, as well as attempts to commit any of the aforementioned acts. The definition also includes similar conduct which violates federal criminal statutes. See, e.g., 18 U.S.C. Sections 241, 242, 245; 42 U.S.C. Section 3631 (1982). (CONTINUED)

a variety of adverse social, physical, and psychological consequences, including an increase in violent activity. Brenner has studied the statistical relationship between economic conditions and a number of societal phenomena, such as homicide and suicide rates. He concludes that "the national and regional economic situations, and especially the rates of unemployment, represent the dominant influence on violence against minorities, as well as on violence in the United States in general."[3/] Thus, he suggests that victims of racially motivated violence are not unlike others victimized during times of economic hardship, inasmuch as their victimization is largely attributable to the stress which such hardship creates in the population generally.

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2 (CONTINUED)
If, for example, a White male were committing armed robbery upon a Black male, this conduct would not fall under the above statutory provisions unless accompanied by the use of a racial slur or other evidence which suggests that the victim's race was at least one of the factors motivating the robber. The courts have so held.

3/ Brenner, Violence Against Minorities, and Criminal Aggression in General as Related to National Economic Distress and High Unemployment Rates, reprinted in Hearings on Racially Motivated Violence, before the Subcommittee on Criminal Justice of the House Comm. on the Judiciary, 97th Cong. 1st Sess. 17-44 (1981).

Like Brenner, Dr. Mary Frances Berry, a current member and former chairperson of the United States Civil Rights Commission, acknowledges that economic conditions may contribute to the spread of racially motivated violence.[4/] However, Berry adds that other conditions have also prompted much of the violence directed against Blacks. According to Berry, such violence often stems from specific disputes, such as those surrounding the desegregation of schools. She argues that the primary explanation for racially motivated violent violent acts against Blacks has been the need of a segment of the White population to preserve their belief in the inferiority of Blacks, and to maintain the social and political subordination of an historically outcast group by any means, including violence.[5/]

4/ See Hearings on Racially Motivated Violence, supra note 3, at 62 (statement of U.S. Commission on Civil Rights member Mary Frances Berry) (noting that "[t]he Nazis, and similar groups ... have successfully capitalized on the economic anxieties of Whites caused by the current economic problems the country faces by blaming the problems on Blacks and other minorities").

5/ See M.F. Berry, Black Resistance/White Law: A History of Constitutional Racism in America (1971). Cf., United Church of Christ Commission for Racial Justice, Racially Motivated Violence in America (1983) (contains remarks of both Berry and Brenner, as well as a number of other scholars and practitioners in the field, presented at the Commission's conference on racially motivated violence).

It is difficult to understand fully the interplay between the historical origins and modern causes of racially motivated violence and to ascertain the incidence of such violence because there is no national source of accurate, comprehensive statistical information on the incidence of racial violence. No uniform, nationwide system for reporting acts of racially motivated violence currently exists, although legislation to establish such a system has been introduced in the U.S. House of Representatives.[6/]

6/ While the Uniform Crime Reports contain a plethora of information about various categories of criminal activity, obtained from law enforcement offices nationwide, they contain no information about acts of racially motivated violence. In response to this omission, members of Congress have introduced at least three bills to remedy the situation, but none have been enacted yet. See Hate Crimes Statistics Act, H.R. 2455, 99th Cong., 1st Sess. 131 Cong. Rec. H 3098 (daily ed. May 9, 1985); H.R. 5566, 98th Cong., 2d Sess. 130 Cong. Rec. H (daily ed. May 2, 1984); H.R. 4800, 98th Cong., 2d Sess. 130 Cong. Rec. 653 (daily ed. Feb. 8, 1984). See also, H.R. Rep. No. 208, 99th Cong., 1st Sess. (1985) (discussing the proposed Hate Crimes Statistics Act).

Dr. Elsie L. Scott explored the magnitude of the problem of racially motivated violence and includes statistics obtained in her study, Violence Against Blacks in the United States, 1979-1981, Mental Health Research and Development Center, Institute for Urban Affairs and Research, Howard University (1982). In a speech sponsored by the Harvard Law School Center for Criminal Justice Racially Motivated Violence Project in 1984, Dr. Scott noted that she had considerable difficulty obtaining statistics on racially motivated violence, and indicated that her difficulty was due in part to the lack of a national reporting system.

Only one State[7] has enacted legislation requiring local law enforcement offices to submit reports on all "incidents apparently directed against racial, religious, or ethnic groups."[8]

Although bills have been introduced in the New York legislature to require the collection and analysis of data on incidents of racial, religious and ethnic violence, to date New York presently lacks such capacity. In New York State, the New York City Police Department and the Police Departments of Nassau and Suffolk counties have instituted bias crime units. These units have begun to collect data on bias motivated crime, but that data in inadequate as a bias for assessing the extent of the problem in New York State. Mr. Lawrence Kurlander, Director and Commissioner of Criminal Justice, stated in a letter dated February 3, 1987, that a State-wide estimate for New York State, based upon projection from levels of crime in New York City for the year of 1985 would range from 900-1,000 such incidents statewide compared with a reported 389 incidents in Maryland for the same years:

7/ Maryland enacted two statutes requiring regular reporting of acts of racial, religious and ethnic violence in 1968. See Md. Ann. Code Art. 88B, Sections 9(b) (1985).

8/ Md. Ann. Code Art. 88B, Section 9(b) (1985).

There is no way to definitely assess the extent of the problem of racially motivated violence in New York State, since Statewide data are not currently available. We do know that in 1985, the New York City Police reported approximately 286 "bias" incidents with a religious, or ethnic motivation. These incidents included both person and property crimes. It is safe to assume that only a portion of the actual number of such incidents were reported to the police. If, for example, 50% of bias crimes were unreported (a conservative estimate), then a rough total for New York City for this period would be 572 incidents. With New York City accounting for approximately 50% of the State's total population and 60% to 75% of its crime, a Statewide estimate for 1985 could easily be in the range of 900-1,000 incidents. This, of course, must be considered a very general approximation. It is important to be aware that the classification of bias crime includes religiously motivated crimes. In New York City, this is, by far, the largest subcategory, accounting for over half of such incidents. Unfortunately, a more accurate assessment is not possible at this time.

It is clear from the above projections, limitations in the database notwithstanding, that the volume of these occurrences is unacceptably high.

It should be noted here that in New York State, the Governor and some legislators have recently introduced legislation that seeks to curb the incidence of racially motivated violence, intimidation, vandalism and harassment, and in general, we applaud those efforts. For example, in the Governor's bill the punishments are heightened for specified crimes against persons and property "which are motivated in whole or in part by the race, creed, color, national origin, sex, disability, age or sexual orientation of a person or group of persons." This legislation is an important first step

toward the reduction of bias-based criminality. State Senator David Paterson has also proposed a series of changes in New York penal law which will prescribe serious penalties for persons who murder, inflict serious injury, harass , assault other persons or damage their property because of their race, religion, ethnicity or sexual orientation. The New York legislature should be encouraged to enact these proposals into law since they are both sound and necessary. Briefly, the Paterson bills encompass amending certain sections of New York penal law.

The first bill would amend the penal law in relation to criminal mischief in the second degree by making that section applicable to any person who intentionally damages property of another person because of the race, color, sexual orientation, religion or national origin of such person. It would amend the riot in the first degree law by reducing from ten (10) to four (4) the number of persons required to be acting together for purposes of the crime of riot. It would further amend the first degree riot law by criminalizing as a Class E felony refusals to rent or sell property to another because or race, color, sexual orientation, religion or national origin or actions which prevent or discourage sales or rentals because of race, color, etc.

A second bill amends penal law sections 125.25(3) and 10.00 and adds a new section 125.25(4) in creating the crime of civil rights murder. This bill criminalizes, as second degree murder, the commission of specifically named violent felonies motivated by racial, religious, ethnic or other hatred where a death occurs. It further treats as second degree murder intentionally or recklessly causing another's death by acts of battery with intent to harass , annoy or threaten because of bias motivation.

A third bill would increase penalties for certain bias motivated crimes, while a fourth would create a crime of aggravated assault where recklessly or intentionally inflicted injuries are caused by bias motivation.

The fourth bill amends Article 4 of the civil rights law. Article 4 establishes equal rights to access and enjoyment of places of public accommodation. Amended section 44-b authorizes the attorney general to bring civil actions for injunctive relief to protect the peaceable exercise or enjoyment of rights secured by the constitution or laws of the United States and the State of New York. It further authorizes private civil actions for injunctive relief or damages and provides criminal penalties for persons convicted of violating the law. This amendment is explicitly based upon and purports to parallel rights of action found in federal law, sections 42 U.S.C. 1983 and 1985.

Generally, the legislative proposals summarized above are a comprehensive and appropriately broad-gauged approach to the problem of racially motivated violence. Such comprehensive legislation is justified by the complex nature of random bias motivated crime. Because of its unpredictable nature, and the limited amount of concrete knowledge of its causes, legislation providing general deterrence, e.g., deterrence through threat of severe penalties including incarceration for racially motivated assaults and homicides, is fully warranted.

No discussion of racially motivated/targeted violence would be complete without a specific review of police violence and we now turn our attention to this area. The Black community must depend upon the police for protection from crime. Yet, too often, there are incidents of police use of deadly or excessive force directed against Blacks, creating divided feelings within the Black community about the aims and purposes of the law enforcement community; fostering ill will

and hence limited community cooperation with the police in the area of crime prevention and detection; and in some instances, perhaps even encouraging violence by Blacks directed toward the police themselves. No law enforcement agency can function with maximal efficiency under such circumstances and thereby fulfill its duties to society. If problems of crime in the Black community, indeed society at large, are to be dealt with, the problem of police abuse of force and racially targeted/motivated violence must also be vigorously responded to.

The use of deadly force especially when employed by White police officers against Blacks is inextricably linked to perceived police racially motivated violence. The perception held by many Blacks is that police are more ready to utilize deadly force in their dealings with minorities than in their dealings with whites. Recent instances of use of "chokeholds" by police, which have resulted in the deaths of several Black arrestees, are a special source of concern in this regard. Indeed, even where death has not attended the use of chokeholds, substantial adverse medical consequences have still attended their use.

And, statistics suggest that there is a solid rational basis for this perception. In a 1985 report entitled Police Use of Deadly Force in New York State, to Governor Cuomo, then Commissioner of Criminal Justice Services, Richard Condon, found on the basis of numerous studies during the 1960's and

1970's that the proportion of incidents in which deadly force was used against minorities was larger than the proportion of minority citizens in the overall population and that, therefore there was a basis for the interpretation that police killings of minority citizens is disproportionate. The hearings into police brutality in New York State conducted by U.S. Congressman John Conyers are replete with statistics relative to this point and confirm its legitimacy. In one of the studies on which Condon relied, Goldkamp reported:

> On August 26, 1973, for example, the New York Times reported that about sixty percent of all such deaths recorded between 1979 and 1972 in New York City were Black citizens. Kenneth Clark reported (New York Times, September 18, 1974) that three-quarters of all victims of police shootings between 1970 and 1973 were members of minority groups; about half were Black and one quarter were of Hispanic ethnicity, in sharp contrast to their share in the local population . . .Robin reviewed statistics concerning police killings of civilians in eight other cities (Akron, Chicago, Kansas City, Miami, Buffalo, Philadelphia, Boston and Milwaukee) and found Black victims included among the deed more frequently than Whites at ratios which ranged from 6 to 1 (in Akron) to 30 to 1 (in Milwaukee) (Goldkamp, 1982).

Whatever the reasons in fact for the differences in treatment in this regard between minorities and Whites, our point is that most Blacks <u>perceive</u> the causes to be related to race. Thus, the problem of determining whether particular police-citizen confrontations are racially motivated is further complicated by the perceptions minorities have of the police and the perceptions the police have of minorities.

Richard Condon (1985) wrote that minority community leaders articulated the recurrent theme that in day-to-day contacts, many police treat minorities abusively, many police officers are unnecessarily curt, sarcastic and routinely use racially offensive language. Consequently, charges of physical abuse are perceived as growing out of racial bias.

On the other hand, many police officers, who generally come from different racial and cultural backgrounds from the residents in communities they police, hold negative perceptions about minorities. The differences may lead to a belief that behaviors occurring in a minority community are "deviant" and, therefore, suspicious.

Because of this sort of estrangement, minority community leaders find it difficult to establish relationships with the police which will at the same time promote cooperative efforts toward maintaining order and limit abusive police behavior.

Condon (1985) reported that the number of brutality allegations had increased significantly in New York City. However, because of the lack of statistical information, it is unknown whether that pattern is true State-wide. Moreover, because of the absence of a State-wide data gathering and analysis system the nature of the brutality incidents, whether they involved provable instances of racial bias, or the characteristics of the officers and the events, is also unknown.

A major part of any strategy for reducing allegations of police brutality must be a reduction in racial and cultural differences between police and the citizens in the communities they are supposed to protect. Resolving these differences would seem to depend at least upon two things. First, racial integration of police forces is essential to break down the negative stereotypes the police and citizens have of each other through their estrangement. Second, more direct contacts must be created and sustained between citizens in their communities and their police. Condon (1985) wrote that the change of deployment patterns -- shifting police away from foot patrols to vehicles -- greatly contributes to this estrangement. In order to restore order to the streets and make them less the market places for the sale of drugs and target areas for thieves, police officers must have stations in communities where they can be contacted on a day-to-day basis to facilitate community people in regaining control over the streets.

While concrete information on the extent of integration of Blacks into municipal and county police departments across the State is not available, such information is available for the State police. Data supplied by the Division of Criminal Justice Services on the assignment of State police by race to troop locations show varying but generally low levels of racial integration. From as low as 2.8% in Albany (Troop G) to a high of 17.8% in Nassau and Suffolk Counties, the percentages across

the State (e.g., New York City, 8.8%; Syracuse, 4.4%; Rochester, 5.5%) are generally below the percentage of Blacks in the general population. Of course it is not accurate to extrapolate from the racial integration of State police to urban departments, but the point can be made that increases of Black and Hispanic officers at all levels is seriously needed.

Recommendations

1. New York State, through the Legislature, should enact a centralized comprehensive reporting system on the discharge of firearms by police. This information should be reported to the Division of Criminal Justice Services which agency would make it available for public dissemination.

2. New York State should also centralize the reporting of alleged incidents of brutality in the Division of Criminal Justice Services. This information could then be analyzed to reveal the nature, numbers and frequency of occurrence of alleged brutality by police officers of citizens throughout New York State. The establishment of such a data base is essential to the determination of what factors account for the current levels of police bias and what measures may be effective in producing reductions.

3. Police departments throughout the State of New York, particularly in major cities, should be encouraged and supported in undertaking whatever steps are necessary to increase minority representation. Vigorous efforts are required to recruit minorities, particularly Black and Hispanic officers, to help reduce hostilities and distrust currently existing between police officers and community residents.

4. New York State should demonstrate a strong commitment to improving relations between the police and minority communities by providing funds for the expanded development of locally initiated projects designed to increase contacts between the police and minority communities. Such projects should include the creation of neighborhood police stations in community facilities, i.e., public housing projects, and public schools to increase the availability of beat patrolmen to resolve on a day-to-day basis neighborhood crime problems.

5. New York State should create enabling legislation to provide police magistrate courts or neighborhood tribunals to adjudicate petit criminal and quasi-criminal neighborhood disputes. Such courts would empower communities on the neighborhood level to effectively deal with relatively minor, local crime problems swiftly and efficiently.

6. The Division of Criminal Justice Services should be expanded to provide services comparable to the Federal Community Relations Service of the Justice Department, especially to facilitate resolution of conflicts growing out of alleged incidents of police brutality, particularly those involving White officers and minority citizens. Mediation and conciliation services are needed to prevent the spread of hostilities in the wake of incidents such as the Eleanor Bumpers and Michael Stewart cases.

7. The State of New York must enact legislation requiring county and municipal police departments to gather and disseminate uniform data on the nature and number of racially or bias motivated incidents occurring monthly. Alternatively, the Division of Criminal Justice Services should be encouraged to effectuate its plan to redesign its Uniform Crime Reporting (UCR) statistical data system. By incorporating a "hate crime" component into a redesigned UCR System, the Division of Criminal Justice Services could begin systematic planning with local police agencies for the collection of hate crime data and develop a uniform system of reporting.

8. Law enforcement training programs should be held within law enforcement agencies so that officers may become sensitized to the differences between bias motivated crimes and crimes stemming from different motivations.

9. New York State should enact the civil rights and penal law proposals discussed above. Only a comprehensive approach can be expected to effectively curb the random and pernicious acts of bias motivated violence which infect such a wide variety of sectors of our public and private lives.

10. New York State should without hesitation utilize the services of special prosecutors in any and all instances in which there is a reasonable basis for the belief that police, other officials, or private citizens, have utilized force or violence which is racially motivated.

11. New York State should outlaw the use of "chokeholds" as an acceptable police practice. This could be done through legislation or regulations attendant to the disbursement of State funds to local policing authorities.

II. CRIME PREVENTION STRATEGIES

In the sections of the report which follow, the Committee will set forth in summary fashion some general views relative to crime prevention. We note at the outset that as a philosophical matter we believe that "an ounce of prevention is worth a pound of cure" and that the State of New York has been remiss in failing to adopt an integrated, holistic approach to the prevention of crime in the Black community. The failure in this regard can be seen in the increasing reliance by the State on an ever proliferating set of discrete task forces, commissions and committees, each of which may make sound recommendations for State action in specific areas, but none of which has substantial implementing authority. The shelves of State offices are full of such reports which, if implemented, would be instrumental in preventing and remediating the effects of crime in the Black community. We hope that the discussion which follows will not fall on deaf ears. Rather, we urge the

State to develop a coordinated, effective program in this critical area. The Governor of the State must serve as the guiding spirit and exemplar of the State's commitment to fundamental change. We note again that we believe the State has the expertise to implement the changes needed to help deter and substantially reduce crime in the Black community. We challenge the State to deploy its expertise and power to that end and to do so now.

Employment

The Committee will present its views relative to employment policy in greater depth in another publication. However, no report which is concerned with crime prevention and the Black community would be creditable were it not to recognize at the outset the common sense association between poverty and the high incidence of crime and between unemployment and poverty. The evidence from decades of research is that there is an almost linear relationship between socio-economic deprivation and serious crime. (Currie, 1985: 146) While some scholars may debate the nature of the relationship, whether causal or not, we note merely that there is a need to give people life options that make crime as a way of life unappealing. See also, Thompson, 1981. This need is especially palpable as it pertains to Black youths.

Thus, first and foremost, we believe that the State must commit itself to the development and implementation of a full employment program with priority in job placement being given to Blacks who suffer from among the highest rates of unemployment. Blacks who are in custody should also be afforded meaningful job training, counseling and other job-readiness services in order to ensure that upon return to society, they can be gainfully employed.

Recommendations

1. The State should develop a comprehensive job training program. In terms of unemployment, this means that job training programs must do more than promise to create a thousand jobs. Training programs for dead-end jobs and jobs that are disappearing will not effect change. These programs must provide economic opportunity directly by interfacing with the changing labor market.

2. The State should provide more:

   a. loans and technical assistance to small, minority-owned businesses.

   b. incentives so that larger businesses will locate and/or invest in the Black community.

   The benefits derived from such an approach are threefold. First, as a result of the influx of business, large and small, real employment opportunities are available. Second, the encouragement and support of small businesses provides both a community base and role models for those who are alienated. Finally, incentives provided to larger businesses will encourage the development of deteriorated communities, thereby eliminating targets which encourage vandalism and destruction. The revitalization of the community would also help improve the overall quality of life for community residents.

3. In the case of ex-offenders, three types of programs are recommended. First, cash subsidies should be provided. Lenihan (1974) noted that recently released prisoners have little savings or cash to bridge the gap between prison and work. Providing a cash subsidy for a number of weeks after release would help give ex-offenders time to look for a job that will provide steady employment and good wages. Second, job training programs for offenders must also interface with the labor market. Training opportunities should extend beyond the institution to encourage advancement. Employment assistance should be part of both pre-release and parole. Finally, employers must be encouraged to hire qualified ex-offenders. If education and job training opportunities are not parlayed into realistic employment opportunities, there is little incentive to remain crime free. As was stated so well recently by Marion L. Borum, Deputy Commissioner for Program Services, New York State Department of Correctional Services:

> As concerned citizens, we must be acutely aware that almost all prisoners will be returning to their communities. Should we give them $40 "gate money," point them in the direction of their homes, and be finished with them? Or should we attempt to provide them the opportunity of a phased reintegration into the community, assist them in obtaining jobs or training, accumulate some savings, contribute to the support of their families and return them to their communities in better shape than when they left. To make the point differently, should we provide the prisoner a bridgehead to prepare a plan for himself/herself in the community to assist in becoming a productive law-abiding citizen?
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> Letter of January 13, 1987

This Committee answers the question with an unqualified "yes" and accordingly, urges the State to increase substantially its programmatic commitment to employment training, employment, work release and other related services.

4. The State should review and revise its welfare system. There is a need to revise the system so that it will foster independence rather than dependence and stronger Black families rather than weakened ones. Welfare recipients should be provided with meaningful job training and assisted in finding meaningful work. The Massachusetts workfare program should be reviewed for possible adoption of a similar program in New York.

5. Programs such as "Rent-a-Teen" should be encouraged to provide youths with basic, good work habits.

Education

In another publication the Committee will set forth its views fully relative to the educational needs of the Black community. We would be shortsighted, however, if we did not also take this opportunity to express our dismay over the massive failure of the public educational system to retain and educate well the thousands of young Blacks who populate our schools. Statistics show us that Blacks are over one and one-half times less likely than Whites to have completed high school, and over 40 percent of all Blacks have not completed high school. Here, too, while researchers argue over the nature of the link between school and crime and delinquency, we note that it is not surely by coincidence that the statistics show a strong association between delinquency and poor performance in school. We are satisfied with the research evidence which shows that the poorer a child's academic record, the greater the likelihood of delinquency involvement (Task Force on Juvenile Delinquency, 1967; Hirschi, 1972; Jerse and

Fakouri, 1978). The Task Force on Juvenile Delinquency reported that boys who failed in school were found to be delinquent almost seven times more than those who did not fail. This was the case in both working and middle class groups. Similarly, Jerse and Fakouri report that based on academic records, delinquents are more often academically deficient than non-delinquents. Other studies show more school misconduct (West and Farrington, 1973), more school truancy (Reckless and Kinitz, 1972), and a greater tendency to drop out of school among delinquents than among non-delinquents.

In light of this nexus, it seems to us that the State must devote substantial resources to special programs in the public schools aimed at retention of Black students and providing them with enriched instructional programs. If the State fails to invest in its Black youth, particularly in light of the changing demographics which show that the State will in the future have to be much more reliant on minority youth to meet its manpower needs, the State will lose its competitive edge in the nation's economy.

Recommendations

1. The State should provide more incentives to business and community leaders who develop and implement programs to assist inner-city youths in pursuing higher education. Programs such as the "I Have a Dream Project" developed by Eugene Lang should be used as a model.

2. The State should introduce conflict-resolution instruction in junior high school classes. The focus would be on teaching adolescents the facts of violence and how to avoid confrontation. The curriculum developed by Dr. Deborah Prothrow-Stith of Boston Hospital should be used as a model. The introduction of this curriculum should have a positive impact on both school and community behavior.

3. The State should support the development of curricular offerings which prepare teachers for employment in low income and minority communities. The curricula should focus on cultural differences and on the expectations that teachers have for students from different backgrounds.

4. The State should fund community-based, after school, weekend and summer programs in poor neighborhoods. The New York Urban League and several Black churches in Harlem are currently operating a project of this type that could serve as a model for replication in Black churches throughout the State. Both tutorial and enrichment programs should be offered. These programs can provide the students with activities that will keep them off the streets, while at the same time help them improve their academic skills.

Drugs

Perhaps nowhere is the threat to the life and vitality of the Black community seen more clearly than in the area of drug abuse. Involvement with drugs frequently leads to involvement with crime. The State's correctional institutions are bursting at the seams with Black people who have committed crimes in order to support their drug habits or while under the influence of drugs. Manifestly, the State must do more than it has been doing to address this problem for it threatens the integrity, stability and very survival of the Black community itself.

A 1982 national survey on household drug use revealed that 20 million Americans had used marijuana; four million had used cocaine; two million had used other stimulants; and, over one-million reported using sedatives without a prescription during the preceding 30 days. Drug use by high school students had shown a decline until 1985 when increases were shown. Cocaine use is on the increase among young people in all subgroups: males and females, college and non-college students, rural and urban. The number of cocaine related deaths in the United States increased from 195 in 1981 to 613 in 1985. An estimated 25 million people have tried cocaine; approximately five million are current users, and more than one million are addicted and need treatment. There are an estimated 550 thousand active heroin addicts. One-third of all persons served by the New York State Division of Substance Abuse Services are Black and one-fourth are Hispanic. Blacks make up about 14 percent and Hispanics make up about 10 percent of the State's population.

In addition, The 1985 Health and Human Services Report on Minority Health found that Blacks are more involved in intravenous drug use than Whites, an especially serious problem in light of AIDS. Data from The 1982 National Drug and Alcoholism Utilization Survey show that Blacks are three times more likely to be in drug abuse related treatment than Whites.

Data gathered through the Drug Abuse Warning Network in 27 metropolitan areas and areas outside metropolitan areas suggest that minorities are more likely to be involved in dangerous drugs than non-minorities. The Minnesota Institute on Black Chemical Abuse estimates that Blacks make up 40 percent of the nation's narcotics users.

Recent research shows that drug use by criminal offenders is much greater than what had been estimated by criminal justice officials. James K. Stewart, Director of the U.S. Department of Justice, National Institute of Justice, reports that of 14,000 persons arrested in Washington, D.C. and New York City, more than half had been using dangerous illegal drugs. Of the number that had used drugs, nearly one-third in Washington and two-fifths in New York had used more than one drug. Multiple drug users are said to commit four to six times more crimes when they are on drugs than when they are relatively drug free. Race-specific statistics on drug use by arrestees was not available.

The arrest statistics for New York show that Blacks are disproportionately arrested for drug related offenses.[9/] In

9/ According to Paul Woodard, Deputy Director, New York State Division of Substance Abuse Services,

1984, over half of the persons arrested on charges relating to the sale or manufacture of drugs in New York State were Black, and 40 percent of the persons arrested for drug use and possession were Black. Likewise, 54 percent of the persons arrested on sale or manufacture charges in New York City during the same time period were Black, and 48 percent of persons arrested on use or possession charges were Black.

New York has recognized the need to target its substance abuse programs toward the communities most in need. Consequently in 1985/86 over $43 million was allocated to such programs. These programs included a cross section of organizations such as religious groups, hospitals, civic organizations and drug treatment groups. The majority of the programs are located in New York City where the greatest number of abusers live. While the sum allocated by the State is substantial in an absolute sense, it is de minimus relative to the need for substance abuse programs. Much more must be done if the cycle of drug abuse and crime is to be broken.

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9 (CONTINUED)

> Obviously drug and alcohol abuse are major problems for the prison population. A New York State Commission of Correction Report (March 1986) states that 92% of the inmates in their sample had a history of intravenous drug use; yet virtually no comprehensive drug/alcohol abuse programs exist in the prisons. Given this lack of services, we can predict that people will return to drug use upon their release; and from there go back to prison. This revolving door "justice" services no one well and should be reconsidered. In fact, mandatory drug treatment would be a much more effective "sentence" for many inmates than is prison.
>
> Letter of April 19, 1986

Recommendations

1. The State of New York should expand demand reduction programs. The primary target of school programs should be kindergarten children. Programs for kindergarten students can be patterned after the "just say no" campaign. Programs for junior high and high school students should stress the negative impact of drugs and alcohol. The State and municipalities should prepare public service announcements specifically designed for Black audiences--such as rap songs and statements by Black athletes, community leaders and artists. These announcements should be run on Black radio stations, radio stations that play crossover music, television stations and at neighborhood theaters.

2. The State should sponsor public education programs and literature to explain the relationship between AIDS and intravenous drug use. Dr. Benny Primm, executive director of Addiction Research and Treatment Corporation, testified before the Select Committee on Narcotics Abuse and Control of the U.S. House of Representatives that AIDS has become one of the leading causes of death among young Black males in New York City. He stated that the prevalence of AIDS in Blacks is attributable in large part to the use of shared needles in intravenous drug use.

3. The State should sponsor programs to educate ministers, parents and community workers concerning the facts about drugs. The State should provide training for ministers and community workers so that they can provide minimal substance abuse counseling and be able to determine which cases should be referred to professional counselors and treatment specialists.

4. Funding for drug and alcohol counseling and treatment should be increased.

5. Increased funding for local law enforcement agencies should be provided to fight drug abuse and increases in crime related to drug use. A comprehensive anti-drug act was passed during the last Congress, but few resources were provided for local law enforcement. Since the federal government is not providing local funds, more resources will have to be allocated at the State and local levels.

6. Alcohol education programs that target Blacks should be endorsed and supported by the State. Statistics show a reduction in alcohol consumption by the general population, but consumption has not been reduced among lower income Black males. Studies have shown that there is a relationship between alcohol abuse and criminal and disruptive behavior. In order to reach many of the Black males who may be abusing alcohol and engaging in disorderly or criminal conduct, mandatory alcohol counseling and treatment should be used an an alternative to incarceration. In this respect, we wholeheartedly endorse and incorporate by reference the recommendations to the Governor made in th Report of the Governors' Task Force on Alcoholism Treatment in Criminal Justice (1986).

7. The "Pros for Kids" program based in San Mateo, California should be reviewed as a possible model program. "Pros for Kids" is an anti-substance abuse program that uses professional athletes as role models for young people. School assembly programs, classroom presentations and motivational programs, along with media campaigns and campaigns and community presentations are used to present anti-drug and alcohol abuse messages. Non-residential summer camps that provide athletic, academic and drug and alcohol abuse prevention instruction are run for junior high and high school students.

Domestic Violence

The Attorney General's Task Force on Family Violence (1984:vi) noted that:

> Family violence permeates all levels of our society. It is not unique to any particular social or economic group, nor is it restricted to any one sex or age group.

There has been little empirical research on the prevalence of the family violence, spouse abuse in particular, in the Black community or on official reactions to victims of family violence. There is a debate in social science literature about the relationship between race and family violence and whether

the incidence of such violence is higher among Blacks than among Whites. This committee notes, however, that whatever the differential, if any, or racial group differences, if any, the fact is that family violence is a serious problem in the Black community and the State's response to the problem has thus far been inadequate. As the New York State Coalition on Domestic Violence has pointed out, the present New York State appropriation for domestic violence is lower than that of many other States.

The unavailability of shelters for victims of spousal abuse is a major concern. Shelters have become the cornerstone of treatment for battered women. However, federal and State cutbacks on funds for social services have forced many shelters to reduce their services or close their doors. According to Response (1984), 76 percent of domestic violence programs had reduced their services, and 79 percent were not able to meet the needs of battered women in their communities because of federal funding cutbacks in programs such as CETA, Title XX, VISTA, and CSA. In view of the fact that it is estimated that the shelters in the country provide only one quarter million beds annually for several million women and children who need them, it is incumbent upon states to provide need funding.

The New York State Coalition Against Domestic Violence collected data which show that in 1985-86, 6,333 women and 5,268 children in the State were refused shelter--most often for lack of space. New York has had a $1 million appropriation

for domestic violence since 1982. This appropriation is lower than many other states--19 states with smaller populations have a $1 million or larger appropriation. There is a need to increase appropriations to prevent the closing of present shelters and to increase the capacity of present services.

New York only allows a 90-day stay in special care homes. Battered spouses and their children are often forced to leave safe homes to live in homeless shelter dues to the 90-day limit.

Another problem involves the inter-county transfer of families. Families who move from their home county are often refused service because neither county will pay the per diem rate for the family.

Recommendations

1. The State should encourage local law enforcement agencies to adopt arrest as the most appropriate strategy in cases of grave and/or repeat instances of domestic violence.

2. The State should provide alternatives to incarceration in selected cases of less grave domestic violence. The alternative programs could include mandatory counseling and/or drug and alcohol treatment. Such programs would divert offenders from overcrowded jails and prisons.

3. The State should make the funding of shelters for victims of spousal abuse a priority. Special emphasis should be placed on encouraging the development of shelters by Black organizations and helping fund such shelters. As has been urged by the Governor's Commission on Domestic Violence, chaired by Karen Burstein and Kim Fields, the committee firmly believes that the 90-day stay rule should be abandoned.

4. The State should encourage the development of domestic violence prevention counseling centers. They can be housed in existing community-based facilities. Hospital emergency rooms could serve as ideal locations for such centers.

5. Legislation should be passed that requires the admission of State residents into any shelter regardless of home county.

Handguns

Research clearly shows that there is a relationship between handgun use and violence in the United States. Forty-three percent of all murders in 1985 were committed with handguns. Handguns were involved in every assassination attempt reported since 1968, and handguns were used to carry out three-fourths of all police killings during the 1970s and early 1980s.

Handguns seem to be the preferred weapon in Black homicides. Over half of the Black homicides during the period from 1976 to 1984 were committed with handguns. Farley (1986) states that "non-Whites...are seven times are likely to be shot to death as Whites." He argues that the increase in non-White homicides from 1960 to 1976 "results almost exclusively from more murders by guns."

Law-abiding citizens maintain that they keep handguns to protect themselves from criminals. Yet few of these persons ever use their guns for self-protection. Their guns are more likely to be accidentally discharged, used illegally by burglars who steal them, or by family members in a fit of anger. In 1977, the Police Foundation estimated that at least 200,000 weapons are stolen each year. In 1983, nationally there were approximately 800 fatal handgun accidents, and only 158 justifiable homicides of strangers by civilians using handguns. In a study of the period from 1978 through 1983, Kellerman and Reay (1986) found that for every homicide for self-protection, there were 43 suicides, criminal homicides or accidental gunshot deaths.

To be sure, there is a lack of comprehensive data concerning the effectiveness of gun control legislation. One of the strictest gun control measures was adopted by Massachusetts in 1975. The Bartley-Fox bill provides for a mandatory one-year prison term for persons convicted of carrying an unlicensed firearm. Research has shown that immediately before and after passage, there was a decline in the use of handguns. The assault and homicide rates for other weapons did not decline, but the rates for gun use did.

Of course, the effectiveness of municipal handgun legislation may be lessened if whether similar legislation has not been enacted by surrounding jurisdictions. Moreover, the

effectiveness of State legislation is determined in part by the types of handgun statutes that have been adopted by adjoining States. The recent changes in federal handgun restrictions, such as the removal of the ban on interstate sales will hurt local efforts to implement handgun restrictions.

On balance, these problems notwithstanding, we think that the State should adopt handgun control legislation. Leadership must begin somewhere and the State can provide the example for the Northeastern region of the country by implementing some, if not all, of the recommendations below.

Recommendations

1. In light of the weakening of federal restrictions on handguns, State legislation should be passed that requires the registration of all handguns, a mandatory waiting period, periodic inspections of gun dealers, and increased penalties for handgun possession and use.

2. The State should pass legislation that bans the manufacture, sale and use of plastic handguns. The new plastic handguns are difficult to detect by the metal detectors used in airports and at other security check points.

3. The Governor's Office should launch a public education campaign to expose the public to the facts concerning the use of handguns. Public service announcements, seminars, community forums, public interest television and radio shows, billboards, and ads would be used to present the statistics and facts on the detrimental effects of handgun use, especially information on accidental deaths, the probability of "legal" handgun thefts, and handgun use in domestic violence incidents. Blacks and females would be the primary target groups. The high level of victimization for Blacks justifies the need for educational programs. Females have traditionally been more supportive of handgun restrictions than

men, but as more females become heads of households, the gun industry is making them the subject of many ads. Females need to have the advantage of being exposed to both sides of the issue.

4. The Governor's Office, in conjunction with Black organizations, should launch an "unload the family handgun campaign." Since stricter handgun controls will take time to implement and to produce results, a short range strategy is needed. The "unload the family handgun" campaign could be developed with the recognition that many families own guns that may be used in domestic violence incidents or in suicides. Placing bullets in a separate location from the handgun may reduce the number of deaths and assaults. The time it takes to go to two locations and to load the weapon may be enough to cool the assailant's temper or to allow the potential victim to escape.

Community Based Anti-Crime Initiatives

Crime prevention has become an accepted function of police departments, but there is still a need for more citizen involvement in crime prevention efforts. In a survey of organizations operating crime prevention programs, the National Crime Prevention Council (NCPC) founded that police departments represent one of every two organizations, and sheriff's departments represent an additional 14 percent. Three-fourths of organizations operating crime prevention programs were law enforcement organizations. While the Committee thinks that there is a need for greater law enforcement involvement in crime prevention programs, we note that private, community-based organizations could also play a much more significant role than has heretofore been the case, if afforded needed funds and technical assistance. Such organizations are a resource, as yet untapped in meaningful ways, in the war against crime.

New York is one of the 26 states that the NCPC identified as having both a State criminal justice association made up of local and State personnel and a State criminal justice program to conduct Statewide programs. In addition, nine New York based programs are included in NCPC's program profiles that are suggested as "guide-posts" for other communities. The programs are:

- Church Avenue Merchants Block Association
- Flatbush Arson Prevention
- Andrew Glover Youth Program
- Citizen Committee for New York City
- New Immigrants Unit, New York City Police Department
- New York Police Department - Youth Dialogue Program
- School Victim Assistance Project
- Teen Troubleshooters
- Youth Action Program

A review of the descriptions of each of the programs reveals that a number of areas of crime prevention are omitted. The most glaring area is personal assaults and homicide prevention. Since these programs were not selected for their representativeness, a review of the program descriptions of all the New York based crime prevention programs that responded to the NCPC survey was made. Assault, homicide and other personal crimes were found to be omitted as

primary foci for most programs. Few programs were located in Black neighborhoods and/or run by Black organizations and/or specifically targeted toward Black crimes.

The Police Foundation has identified 18 community-based crime prevention programs that deserve to be highlighted. The programs were selected from 350 programs that responded to a Foundation questionnaire. Four of the programs are based in the State of New York:

- Community Dispute Resolution Center
- School Program to Educate and Control Drug Abuse
- Supported Work for Criminal Offenders
- Sexual Exploitation of the Developmentally Disabled Prevention Program

There is a need for more such programs, especially programs that take a comprehensive approach to crime prevention. McGahey (1983) argues that the most effective crime prevention programs are those run by existing community groups with a variety of social purposes.

New York State funds crime prevention programs under the Neighborhood Preservation Crime Prevention Act (NPCPA). Data are not kept on the race of the groups funded by the State. Monies are not specifically designated for Black groups nor are special measures taken to ensure their participation. Such records should be maintained in order to ensure that groups are in the highest crime areas receive the resources which they need to mount effective programs.

Recommendations

1. The State should undertake an evaluation of existing crime prevention programs with special emphasis being placed on whether the needs of special groups are being adequately addressed. Blacks should be identified as a special group. The results of the evaluation would be used to assist community groups in designing and implementing programs in areas that are not being serviced or that are inadequately serviced. In this regard, we commend to the Governor for further review and consideration the excellent report of the Correctional Association of New York called, Toward A Crime Prevention Strategy, and incorporate its recommendations herein by reference.

2. A review of the National Urban League's Black-on-Black Crime Program should be made. Monies should be made available to sponsor such programs across New York State. The NUL program seeks to inform the Black community of the magnitude of the problem of Black-on- Black crime while at the same time instilling a positive attitude toward being Black. The primary strategy employed is public education--use of the media and community outreach.

3. Police departments should be encouraged to develop and implement C.O.P.S.--community oriented policing system--type programs. Under this program, joint policy-community problem-solving is stressed. Strategies are utilized that place the police in closer proximity to the community and maximize police visibility, communication and interaction. The State should provide funds and other support to localities across the State that wish to initiate and/or expand C.O.P.S. programs.

4. Black groups that are presently involved in social service and community development issues would probably become more active in specific crime prevention efforts if they were educated concerning effective strategies and were given the resources needed to expand their programs. The State should make an extra effort to inform Black groups of monies available, to assist them in the application process, to provide funding for successful programs and to assist them in improving their fund raising skills.

The Citizens Committee for New York City, chaired by Marietta Tree, has substantial experience in working with law enforcement and community based groups in devising community-oriented crime prevention programs. The Committee and others should be consulted and ideas for program models in this regard elicited. The Citizens Committee has recognized that:

> ...[W]ithin poor minority communities, community organizations need to be supported through targeted resources for such activities as community organizing, leadership training, youth organizing and alternatives, and technical assistance. While the State currently funds hundreds of community-based crime control projects, no technical assistance is provided, to our knowledge, in the kind of strategic problem-solving, at the local level, which we have found so effective and so popular among communities where feelings of alienation from the criminal justice system run high.
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> Letter of January 21, 1987

III. PRISON OVERCROWDING

The problem of prison overcrowding in the nation has reached critical proportions in recent years. Nationally, prison populations increased 94% from 1975 to 1980 (National Institute of Justice, 1980). Since 1973, New York State's prison population has tripled from about 12,500 in 1973 to 38,943 as of January 26, 1987 (Potler, 1986, Kurlander, 1987). The operating budget of the Department of Corrections has increased from about $101 million in fiscal year 1972-73 to over $800 million in fiscal year 1986-87 (Potler, 1986).

As instances of reported crime have skyrocketed, so has prison construction. Interestingly, the State's growing prison capacity has not resulted in a decrease in crime. Thus, imprisonment as a deterrent to criminal behaviors has been demonstrated to be relatively ineffectual. In January 1983, the prison system was operating at nearly 120% of capacity and in response to that crisis, Governor Cuomo announced that the Department of Correctional Services (DOCS) would undertake a multi-year expansion program to add 8,600 new calls. This plan was revised and authorization granted to construct 10,200 cells by March 1989 at a cost of around $713 million (Kurlander, 1987). The central focus of DOCS, according to one researcher, is to find available cells for the rapidly expanding prison population (Potler, 1986).

This aspect of our report focuses particularly upon the overcrowding problem because of the dramatic impact expanded imprisonment has upon Black and Hispanic communities. Seventy-five percent of New York State's inmates are Black or Hispanic (Leven, 1986). Citing a U.S. Justice Department, Bureau of Justice Special Report, "The Prevalence of Imprisonment," Leven reported that a Black male has between a 11.6% (1 in 9) to 18.7 (1 in 5) lifetime chance of serving a sentence in an adult State prison. In 1979, over 3% of all Black males aged 10 to 29 were in State prisons (Leven, 1986).

The high rate of Black imprisonment is racially disproportionate compared to Whites and has an adverse impact both upon the prisoner and his family (Christianson, 1982). Researchers have found that disproportionate Black imprisonment combined with overcrowding has a profound influence upon Black culture, identity, social and political status, the family, and race relations (Christiansen, 1982, p. 21; Cox, Parker and McCain, 1984). Overcrowding, and attendant increased social density, contributes to pathology; increased mortality rates; and increased anti-social behavior (Cox, Parker and McCain, 1984). Imprisonment reduces life expectancy, impairs the individual's ability to function in a non-dependent state of freedom, reinforces criminal orientation, and decreases the ability of prisoners to be socialized to non-prison norms (Christianson, 1982). At a very obvious level, overcrowding generates tremendous instability in inmate populations and programs because of the large number of transfers to provide space, (Potler, 1986) and thus reduces the opportunity for prison administrators to sustain programs that may contribute to inmate rehabilitation.

Researchers are in general agreement that prison overcrowding is reflective of changes in criminal justice policies. Crime control advocates, rejecting the 1960's and 1970's strategies of indeterminate sentencing and

rehabilitation, shifted focus to general deterrence and retribution. These theories were designed to communicate a "get tough" attitude to criminals and translated into sharp changes in arrest, sentencing and incarceration policies and practices (VonHirsh, 1985; Cox, Parker and McCain, 1984). The response of state legislatures, including New York's, state judges and prosecutors was to increase the severity of punishment by increasing the frequency of arrests for certain classes of offenders and crimes, particularly drug offenses and misdemeanors, and increasing indictment, conviction and incarceration rates. Legislatures in New York and other states imposed mandatory prison sentences and mandatory minimum sentences for certain offenses. Increased arrests were brought about by street crime and other special commands freed up by use of more civilians for office jobs.

There are three major ways to combat burgeoning overcrowding. First, legislative changes to eliminate mandatory minimum sentences and mandatory prison sentences for certain offenses can be initiated. While this option would be most effective for long term reductions, the general political climate of fear in relation to street crime might make this choice politically less feasible at this time. That is unfortunate because in most state systems where sixty to seventy percent of all criminal cases and eighty to ninety percent of all felonies were formerly disposed of upon guilty

pleas, mandatory and minimum sentences foreclose a very efficient way of disposing of cases and is an effective method for avoiding jail terms in a large percentages of cases.

Second, prison facilities can be expanded to absorb the increases in population. As noted above, New York State has committed large amounts of money to construct new prison facilities and, presumably, to expand existing facilities. The fundamental alteration of the sentencing structure in New York and other states causes larger numbers of inmates to be confined for longer periods of time. The increased expenditure for new capacity diverts large amounts of public resources from other programs, e.g., highway construction, public school development, drug abuse prevention and treatment programs, hospital development, etc. It seems only a matter of time before New Yorkers will be less willing to continue the divergence of public money away from more essential public services.

Thus, the third option, the development of cost-effective alternatives to incarceration seems most viable and New York has already begun some development of alternatives to incarceration. Lawrence Kurlander (1987) wrote that funding for the development of alternatives expanded from an $800,000 appropriation in 1982-83 for six demonstration projects to $16.3 million for fiscal year 1984-85 for 33 such projects in 1986. In 1985, a new State agency, The Division of Probation

and Correctional Alternatives, was created from a merger of the Division of Probation and Alternatives to Incarceration Unit of the Division of Criminal Services. The Alternatives Program now embraces community service sentencing offender rehabilitation programs, individualized sentencing plan programs, pretrial services, residential facilities (including Parole Resource and Parole Transition Facilities) and Intensive Supervision Probation.

Further, the Governor has submitted legislation to enact a policy of determinate parole which would establish the minimum sentence set by the court as the effective release date unless evidence not available to the sentencing court is presented to establish a basis for extended incarceration.

While the above actions are commendable, they seem inadequate to come to grips with the crisis overcrowding represents. Many of the reports examined during this investigation make plain that the total prison population is rising faster than the system's capacity to absorb the growth. Thus, more efficacious action must be taken.

We also note that a consequence of the State's overreliance on incarceration as a solution to crime is that resources, which could be better spent on other priority matters, e.g., education, employment, and crime prevention, are instead spent on "bricks and mortar" and related corrections' staffing costs. Moreover, even the vast sums that are

allocated for correctional institutions are inadequate to ensure that adequate educational, employment, drug counseling and other services are provided to those in custody. Thus, those who swelter in overcrowded prisons are released embittered and with few skills needed to "cope" with freedom and become self-sustaining within the law. It is no wonder that recidivism rates are so very high.

Recommendations

1. New York should reform its mandatory sentencing laws. Mandatory sentences are now appropriate only for violent offenders, the circumstances of whose crimes indicate a necessity for such sentencing. Amendments should achieve the objective of allowing early release for non-violent offenders through the imposition of more appropriate sanctions, i.e., intensive supervision or probation.

2. New York should expand probation opportunities, community service sentences and restitution programs for non-violent offenders. Such measures, which are cost effective, should be enhanced dramatically.

3. New York must develop legislative mechanisms to establish population capacities for the existing prisoner population. When population "caps" are exceeded, an emergency release mechanism should become operative to release to parole supervision pre-screened inmates.

4. New York should establish a limit for new prison construction.

CONCLUSION

This report has not touched upon many issues of importance to the Black community in the area of criminal justice, including conditions of confinement in juvenile and adult correctional institutions, the composition of the judiciary and criminal justice-related agencies, sentencing policies and practices, infirmities in the parole and work release systems, and many others. We hope, however, that we have laid a firm, albeit summary, foundation upon which those who are charged with the duty of administering the instrumentalities of governance can review, assess and improve their capacity to develop public policies to meet the real needs of our community in the area of criminal justice.

In this report it has been our purpose to describe/assess the impact of selected criminal justice issues upon the Black American community in New York State. Any reader of this report should appreciate from a review of the statistics alone the magnitude and gravity of crime in our community--the cost in human suffering, wasted potential, and real fiscal terms is staggering. The leadership of New York State must focus increased attention on these issues if we are to have a livable environment in which to work, raise our families and contribute to the growth and stability of the State.

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